S.B.CIVIL WRIT PETITION NO.4522/2006

Shankarlal & Ors.
v.
Smt. Kesar Bai & Ors.

Date of Order :: 14th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sandeep Saruparia, for the petitioners.

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A sum of Rs.1,50,000/- awarded was ordered to be distributed among the petitioners and the respondent No.1 by Motor Accident Claims Tribunal, Rajsamand with proportion as follows:-

1. Smt.Kesar Bai (Respondent No.1) (wife of deceased)	:	Rs.20,000/- Cash and Rs.60,000/- to be kept in fixed deposit for a term terms of 10 years.
2. Baby Sarita (Petitioner No.3) (Minor daughter of deceased)	:	Sum of Rs.40,000/- to be kept in fixed deposit till acquisition of majority.
3. Shri Shankarlal (Petitioner No.1) (Father of deceased)	:	Rs.15,000/- Cash
4. Smt. Ramu (Petitioner No.2) (Mother of deceased)	:	Rs.15,000/- Cash

The compensation of Rs.60,000/- granted to Smt. Kesar Bai was kept open to be reviewed in the event of her solemnising “nata”. An application was preferred on behalf of Shri Shankarlal, Smt. Ramu and Baby Sarita before the Motor Accident Claims Tribunal,

Rajsamand seeking a direction to redistribute the amount of Rs.60,000/- awarded to respondent Smt. Kesar Bai as a consequent to her "nata" with one Shri Kantilal son of Faujmal Darji. The respondent denied the factum of remarriage and she also asserted that even in event of remarriage or solemnising "nata", she cannot be denied from grant of compensation awarded as a consequent to death of her husband. The Motor Accident Claims Tribunal, Rajsamand by its order dated 3.9.2004 dismissed the application preferred by the respondents, hence this petition for writ.

The contention of counsel for the petitioners while giving challenge to the order aforesaid is that the petitioners No.1 and 2 are supporting the respondent No.3 and, therefore, the compensation given to respondent Smt. Kesar Bai is required to be redistributed as a consequent to solemnisation of "nata" by her. It is also stated that the court below erred while not examining the documents those were submitted by the petitioners to establish the fact about solemnisation of "nata" by Smt. Kesar Bai.

I do not find any substance in the contention so raised. Learned Motor Accident Claims Tribunal after examining all the material available on record reached at the conclusion that adequate evidence was not available to reach at a conclusion

that respondent Smt. Kesar Bai solemnised “nata”. I do not find any error in the finding given by the Tribunal. Beside that, the solemnisation of “nata” by the respondent No.3 even if i.e. established, cannot be a reason for redistribution of compensation.

The petition for writ, therefore, is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.